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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,334	02/07/2001	Scott W. Huffer	9325-36	1473

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EXAMINER

NOLAN, SANDRA M

ART UNIT	PAPER NUMBER
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1772

5

DATE MAILED: 07/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/778,334

Applicant(s)

HUFFER ET AL.

Examiner

Sandra M. Nolan

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 20-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 + 4. 6) ☐ Other: .

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statements submitted on February 7, 2001 (Paper No. 2) and June 5, 2002 (Paper No. 4) were considered by the examiner.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-19, drawn to packaging material and packages, classified in class 428, subclass 36.8.
 - II. Claims 20-24, drawn to processes for making the packaging material, classified in class 427, subclass (unknown).
3. The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the packaging material can be made by co-extruding the films of claims 1-9.
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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5. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

7. During a telephone conversation with Mr. Thomas Durling (215/568-3307) on July 9, 2002 a provisional election was made traverse to prosecute the invention of Group I, claims 1-19. Affirmation of this election must be made by applicant in replying to this Office action.

8. Claims 20-24 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

9. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1, 2, 4¹¹ and 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhang (US 5,616,400) in view of Kurth et al (US 5,548,005) and Dust et al (US 4,889,884).

Zhang teaches cold sealable films and packages (title) made by adhering cold seal-treated surfaces together (Figure 2 and Col. 4, lines 1+). The cold sealable films are applied in stripes spaced along the film (col. 3, lines 32+). The striped areas are overlapped and sealed with pressure (col. 3, lines 53+). A multilayer plastic film is taught at col. 5, lines 21-22.

Zhang fails to teach (1) radiation-cured coatings or (2) the styrene/butadiene and acrylate components in the claimed cold seal adhesives.

Kurth teaches e-beam cured (col. 8, lines 20 and 567) binders for coatings (col. 7, line 67) for plastics (col. 8, line 16) containing epoxy acrylates (abstract; col. 10, line 28). The binders are useful in solvent free coatings (col. 1, line 7).

Dust teaches that acrylates (col. 2, line 44) and styrene/butadiene rubbers (col. 2, lines 46) are known "soft" components (col. 2, lines 20+) of cold seal adhesives (title). Such "soft" components give the compositions pressure sensitive properties (col. 2, lines 23-25).

The patents are analogous because they all deal with coated surfaces and/or packaging employing same.

It would have been obvious to one having ordinary skill in the art to employ the e-beam cured epoxy acrylates of Kurth and the acrylate and/or styrene/butadiene components of the cold seal adhesive ingredients of Dust when making the films and

packages of Zhang in order to gain the solventless adhesion of the Kurth coatings and the pressure sensitivity of the Dust adhesives in the Zhang films and packages.

The motivation to employ the Kurth epoxy acrylates is found at col. 1, line 17 of Kurth, where the solvent free nature of the binders is taught.

The motivation to employ the acrylates and styrene/butadiene ingredients of Dust is found at col. 2, lines 23-25, where the use of "soft" ingredients, such as these is said to give the cold sealants more pressure sensitivity.

It is desirable to make films and packaging using e-beam curable coatings for solvent-free applications and highly pressure sensitive cold sealing adhesives in order to avoid the use of solvents and high temperatures, which would bring with them health and/or energy concerns, since solvents can affect the health of packaging personnel and heated sealing adhesives would require energy usage to generate the heat needed for their use.

12. Claims 3 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhang in view of Kurth and Dust as applied to claims 1, 2, 4-11 and 13-19 above, and further in view of Muggli et al (US 6,337,113).

Zhang, Kurth and Dust are discussed above. They fail to teach the use of print on an inner surface of the film/package suggested by their combination.

Muggli teaches a packaging composite film that has a printed pattern on the inner surface of the film, which printing may be covered with an e-beam coating (col. 4, line 66 through col. 5, line 5).

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All of the cited patents are analogous because they deal with plastic films and/or packaging made therefrom.

It would have been obvious to one having ordinary skill in the art at the time that the invention was made to employ the printed inner surface of Muggli in packaging based on the combination of Zhang, Kurth and Dust in order to decorate and/or label the packaging with indicia that could not be rubbed off.

It is well known that putting a cover layer over printing, such as the cover layer of Muggli, will protect the print from being rubbed off of the coated film.

Conclusion

Any inquiry concerning this communication should be directed to the Examiner, Sandra M. Nolan, whose telephone number is 703/308-9545. The Examiner can normally be reached on Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time.

If attempts to reach the Examiner by telephone are unsuccessful, her supervisor, Harold Pyon, can be reached at 703/308-4251. The general fax number for the art unit is 703/305-5436. The fax number for after final communications is 703/872-9310. The receptionist answers 703/308-0661.



S. M. Nolan
Patent Examiner
Technology Center 1700

SMN/smn
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July 9, 2002